on this action only if warranted by significant revision to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received on or before August 14, 1995. If no such comments are received, USEPA hereby advises that the direct final approval will be effective September 11, 1995.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the Illinois submittal are available for public review during normal business hours, between 8 a.m. and 4:30 p.m., at the above address. A copy of this SIP revision is also available for inspection at: Office of Air and Radiation (OAR), Docket and Information Center (Air Docket 6976), room 1500, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18–J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6082.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: June 14, 1995.

David Kee,

Acting Regional Administrator.

[FR Doc. 95–17220 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 70

[AD-FRL–5258–6]

Clean Air Act Proposed Interim Approval of the Operating Permits Program; Arizona Department of Environmental Quality, Maricopa County Environmental Services Department, Pima County Department of Environmental Quality, Pinal County Air Quality Control District, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes interim approval of the title V operating permits program submitted by the State of Arizona, comprised of programs from the Arizona Department of Environmental Quality (ADEQ), the Maricopa County Environmental Services Department, (Maricopa), the Pima County Department of Environmental Quality (Pima), and the Pinal County Air Quality Control District (Pinal) for the purpose of complying with federal requirements that mandate that states develop, and submit to EPA, programs for issuing operating permits to all major stationary sources, and to certain other sources.

DATES: Comments on this proposed action must be received in writing by August 14, 1995.

ADDRESSES: Comments should be addressed to Regina Spindler, Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the State and county submittals and other supporting information used in developing the proposed interim approval are available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

FOR FURTHER INFORMATION CONTACT: Regina Spindler (telephone: 415/744–1251), Mail Code A–5–2, U.S. Environmental Protection Agency, Region IX, Air and Toxics Division, 75 Hawthorne Street, San Francisco, CA 94105

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

As required under title V of the Clean Air Act (Act) as amended (1990), EPA has promulgated rules that define the minimum elements of an approvable state operating permits program and the corresponding standards and procedures by which EPA will approve, oversee, and withdraw approval of state operating permits programs (see 57 FR 32250 (July 21, 1992)). These rules are codified at 40 CFR part 70 (part 70). Title V requires states to develop, and submit to EPA, programs for issuing these operating permits to all major stationary sources and to certain other sources.

The Act requires that states develop and submit title V programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within 1 year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to 2 years. If EPA has not fully approved a program by 2 years after the November 15, 1993 date, or by the end of an interim program, it must establish and implement a federal program.

II. Proposed Action and Implications

A. Analysis of State Submission

The analysis contained in this notice focuses on specific elements of the Arizona State and county agencies' title V operating permits program that must be corrected to meet the minimum requirements of 40 CFR part 70. The full program submittals, the Technical Support Documents (TSD), which contain a detailed analysis of the submittals, and other relevant materials are available for inspection as part of the public dockets. The dockets may be viewed during regular business hours at the address listed above.

1. Title V Program Support Materials

The Arizona title V operating permits program was submitted on November 15, 1993 by the Arizona Department of Environmental Quality. The Director of ADEQ, the State Governor's designee, requested approval of Arizona's title V operating permits program, comprised of programs from ADEQ, Maricopa, Pima, and Pinal to provide coverage for the entire geographic area of the State of Arizona, excluding lands located within the exterior boundaries of Indian Reservations. Additional material was submitted by ADEQ on March 14, 1994; May 17, 1994; March 20, 1995; and May 4, 1995. Additional information was submitted by Maricopa on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995. Additional information was submitted by Pima on December 15, 1993; January 27, 1994; April 6, 1994; and April 8, 1994. On Pinal's behalf, ADEQ submitted a revision to Pinal's program on August 16, 1994. The programs that comprise the Arizona program all meet the requirements of section 70.4 for program submittal, including a program description, permitting program documentation, the legal opinion of the Attorney General and the attorneys of the county air pollution control agencies, and fully adopted implementing and supporting regulations. An implementation agreement is currently being developed between EPA and each of the Arizona agencies.

2. Title V Operating Permit Regulations and Program Implementation

The permitting rules/regulations submitted by the Arizona State and county agencies are very similar. Therefore, the discussion below is applicable to all four programs. The ADEQ regulations adopted or revised on October 8, 1993 to implement title V include Article 1; Article 3, excluding sections R18–2–311 through R18–2–314, R18–2–316, and R18–2–332; Article 5; and Appendix 1; of Chapter 2 of Title 18 of the Arizona Administrative Code (AAC). Maricopa's title V regulations, adopted or revised on November 15, 1993, include Rules 100, 110, and 120 of Regulation I; Rule 200, except sections 305, 306, 407, and 408, Rules 210, 230, and 280 of Regulation II; Rule 370 of Regulation III; Rule 400 of Regulation IV; and Appendix B of the Maricopa Air Pollution Control Regulations (MAPC Regulations). Pima's title V regulations, adopted or revised on September 28, 1993 include Chapter 17.04; Chapter 17.12, except sections 17.12.030, 040, 050, 060, 070, 360, Article IV, and Article V; Article IX of Chapter 17.16; Chapter 17.20; Chapter 17.24; and Chapter 17.28 of Title 17 of the Pima County Code (PCC). Pinal's title V regulations adopted or revised on November 3, 1993 include Article 3 of Chapter 1; Articles 1, 2, 4, 5, 6, and 7 of Chapter 3; Article 1 of Chapter 7; Article 1 of Chapter 8; Article 1, Sections 9–1–070 and 9–1–080 of Chapter 9; and Appendix A of the Pinal County Code of Regulations (PCR).

The regulations of the Arizona State and county agencies substantially meet the requirements of 40 CFR part 70, §§ 70.2 and 70.3 for applicability; §§ 70.4, 70.5, and 70.6 for permit content, including operational flexibility; § 70.7 for public participation and minor permit modifications; § 70.5 for criteria that define insignificant activities; § 70.5 for complete application forms; and § 70.11 for enforcement authority. Although the regulations substantially meet part 70 requirements, there are several deficiencies in each program that are outlined under section II.B. below as interim approval issues and further described in the Technical Support Documents.

The Arizona State and county permitting programs combine the requirements for operating permits and construction permits. Sources that modify or construct must first obtain a permit that contains both preconstruction and operating requirements. Existing sources must apply for an operating permit. Therefore, there is one set of procedures that apply to the issuance of these integrated preconstruction/operating permits. In addition, the programs address permitting requirements for two classes of permits. ADEQ distinguishes between Class I and Class II permits, Maricopa and Pima between Title V and non-Title V permits, and Pinal between Class A and Class B permits. ADEQ's Class I permits and Maricopa's Title V permits are required only for major sources, acid rain sources, solid waste incinerators, and any other sources in a source category designated by EPA to obtain title V permits. Pima County and Pinal County require major sources, acid rain sources, solid waste incinerators, any other sources in a source category designated by EPA, and any sources subject to an NSPS or NESHAP requirement under sections 111 and 112, respectively (including non-major sources), to obtain a Title V permit (Pima) or Class A permit (Pinal). This interim approval addresses only the elements of the Arizona program that pertain to operating permit program requirements for part 70 sources. The EPA action under part 70 will not apply to the State and county operating permit programs for non-part 70 sources or to State and county preconstruction review programs. This interim approval applies only to that part of the program that provides for the issuance of Class I operating permits (in ADEQ), Title V operating permits (in Maricopa and Pima), and Class A operating permits (in Pinal).

a. Excess Emissions Provisions. ADEQ's regulations (R18–2–310) provide sources with an affirmative defense to an enforcement action taken for excess emission violations that occur during startup, shut down, unavoidable breakdown of process or control equipment, an upset of operations, or if greater or more extended excess emissions would result unless scheduled maintenance is performed, provided the source takes certain steps. Fully approvable part 70 programs may only allow for an affirmative defense for violations that are the result of an emergency as defined in § 70.6. Therefore, in order to receive full approval of its program, ADEQ must limit its excess emissions provision in R18–2–310 by clarifying that it is not applicable to part 70 sources. Maricopa, Pima, and Pinal did not submit excess emissions provisions as part of their title V programs, though similar provisions may exist in county regulations. Because Arizona State law requires county regulations for permitting sources to be identical to the regulations developed by ADEQ (see Arizona Revised Statutes (ARS) section 49–480(B)), EPA expects that, if county regulations contain such provisions, the county agencies will amend them to conform to ADEQ regulations, and include the condition that such provisions may not apply to part 70 sources.

b. Insignificant Activities. Section 70.4(b)(2) requires states to include in their part 70 programs any criteria used to determine insignificant activities or emission levels for the purposes of determining complete applications. Section 70.5(c) states that an application for a part 70 permit may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate appropriate fee amounts. Section 70.5(c) also states that EPA may approve, as part of a state program, a list of insignificant activities and emissions levels which need not be included in permit applications. Under part 70, a state must request and EPA must approve as part of that state's program any activity or emission level that the state wishes to consider insignificant. Part 70, however, does not establish appropriate emission levels for insignificant activities, relying instead on a case-by-case determination of appropriate levels based on the particular circumstances of part 70 program under review.

ADEQ's definition of ''insignificant activity'' (R18–2–101(54)) includes a list of activities as well as a provision for the Director to determine, without EPA approval, that other activities are insignificant. The definition prohibits any activity that is subject to an applicable requirement from being considered insignificant and requires all insignificant activities to be listed in the permit application. ADEQ did not provide EPA with criteria used to develop the list of activities or with information on the level of emissions of the listed activities. In addition, ADEQ's definition does not provide for prior EPA approval of any other (unlisted) activity or emission level that the Director considers insignificant, as required by part 70. Therefore, EPA cannot propose full approval of ADEQ's definition as the basis for determining insignificant activities.

MAPC Regulation II, Rule 200, Section 303.3(c) contains the list of activities that are exempt from part 70 permitting. The applicants must list these activities in permit applications but need not provide emissions data (per Regulation II, Rule 210, Section 301.5(g)). Maricopa did not provide EPA with criteria used to develop the list of

activities, information on the level of emissions from the activities, nor with a demonstration that these activities are not likely to be subject to an applicable requirement. Therefore, EPA cannot propose full approval of the list as the basis for determining insignificant activities.

Pima's regulation (§ 17.12.160.E.7) provides that emission units that do not emit more than 2.4 lbs/day of VOC or 5.5 lbs/day of any other regulated air pollutant are considered insignificant but must be listed in the application. The EPA believes, as discussed below, that these levels are acceptable for defining insignificant activities with regard to units that emit criteria pollutants, provided no such unit is subject to an applicable requirement. The EPA believes, however, that these levels may not be acceptable for units that emit hazardous air pollutants. Pima did not provide EPA with a demonstration that these emission levels are insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted activities nor with a demonstration that these activities are not likely to be subject to an applicable requirement. Therefore, EPA cannot propose full approval of these levels as the basis for determining hazardous air pollutant-emitting insignificant activities.

Pinal's definition of insignificant activities (§ 1–3–140(74)(a)) provides that activities that account for less than 1% of the source's total existing emissions of criteria air pollutants or less than 200 pounds per year of regulated air pollutants, whichever is less, are insignificant. The definition also includes a list of activities that are considered insignificant regardless of emission rates. Pinal prohibits activities that are subject to any applicable requirement from being considered insignificant and all insignificant activities must be listed in the application. EPA believes that the 200 pound per year emission level is acceptable for defining insignificant activities for units that emit criteria pollutants, but may not be adequate for units that emit hazardous air pollutants whose section 112(g) deminimis values are below this level (see discussion below). Pinal did not provide EPA with a demonstration that this emission level would be sufficient to define all hazardous air pollutant-emitting insignificant activities. Neither did Pinal provide EPA with criteria used to develop its list of insignificant activities or information on the level of emissions from these activities. Therefore, EPA cannot propose full approval of Pinal's definition as the basis for determining insignificant activities.

For other state programs, EPA has proposed to accept, as sufficient for full approval, emission levels for insignificant activities of 2 tons per year for criteria pollutants and the lesser of 1000 pounds per year, section 112(g) de minimis levels, or other title I significant modification levels for HAPs and other toxics (40 CFR 52.21(b)(23)(i)). The EPA believes that these levels are sufficiently below applicability thresholds for many applicable requirements to assure that no unit potentially subject to an applicable requirement is left off a title V application and are consistent with current permitting thresholds in Arizona. The EPA is requesting comment on the appropriateness of these emission levels for determining insignificant activities in Arizona. This request for comment is not intended to restrict the ability of the state or county agencies to propose and EPA to approve other emission levels if the agencies demonstrate that such alternative emission levels are insignificant compared to the level of emissions from and types of units that are permitted or subject to applicable requirements.

c. Definition of Title I Modification. The permitting regulations for the Arizona State and county agencies do not contain definitions of ''title I modification.'' ADEQ and Pinal, however, have indicated in their program descriptions and response-to-comments documents that they do not interpret ''title I modification'' to include changes reviewed under a minor source preconstruction review program (''minor NSR changes''). Maricopa did not address its interpretation of this term and Pima has stated, in a letter from David M. Esposito, Director of the Pima County Department of Environmental Quality, dated April 6, 1994, that Pima considers permit revisions requested by minor sources subject to preconstruction review requirements to be modifications under title I of the Act.

In an August 29, 1994 rulemaking proposal, EPA explained its view that the better reading of ''title I modifications'' includes minor NSR. However, the Agency solicited public comment on whether the phrase should be interpreted to mean literally any change at a source that would trigger permitting authority review under regulations approved or promulgated under Title I of the Act. (59 FR 44572, 44573). This would include State preconstruction review programs approved by EPA as part of the State Implementation Plan under section 110(a)(2)(C) of the Clean Air Act.

The August 29, 1994 action proposed to, among other things, allow State programs with a more narrow definition of ''title I modifications'' to receive interim approval (59 FR 44572). The Agency stated that if, after considering the public comments, it continued to believe that the phrase ''title I modifications'' should be interpreted as including minor NSR changes, it would revise the interim approval criteria as needed to allow states with a narrower definition to be eligible for interim approval.

The EPA has not yet taken final action on the August 29, 1994 proposal. However, in response to public comment on that proposal, the Agency has concluded that the definition of ''title I modifications'' is best interpreted as not including changes reviewed under minor NSR programs or changes that trigger the application of a pre-1990 NESHAP requirement. This decision was noted in a June 20, 1995 letter from Mary D. Nichols, EPA Assistant Administrator for Air and Radiation, to Congressman John D. Dingell, and will be included in a supplemental rulemaking proposal that will be published this summer. Thus, the ADEQ, Maricopa, and Pinal programs' definition of ''title I modification'' can be considered fully consistent with part 70. Because nothing in part 70 bars a State from considering minor NSR to be a title I modification, Pima's intent to consider permit revisions requested by minor sources subject to preconstruction review requirements to be title I modifications is also fully consistent with part 70.

d. Conditional Orders. ADEQ has authority under ARS sections 49–437 through 49–441 to a grant a conditional order that allows a source to vary from any provision of ARS Title 49, Chapter 3, Article 2, any rule adopted pursuant to Article 2, or any requirement of a permit issued pursuant to Article 2. The county agencies also have authority, under ARS sections 49–491 through 49–495, to grant conditional orders to vary from rules and permit conditions.

The EPA regards these State and county conditional order provisions as wholly external to the program submitted for approval under part 70, and consequently is proposing to take no action on these provisions of State law. The EPA has no authority to approve provisions of state law, such as the conditional order provisions referred to, that are inconsistent with the Act. The EPA does not recognize the ability of a permitting authority to grant relief from the duty to comply with a

federally enforceable part 70 permit, except where such relief is granted through procedures allowed by part 70. A part 70 permit may be issued or revised (consistent with part 70 permitting procedures), to incorporate those terms of a conditional order that are consistent with applicable requirements. A part 70 permit may also incorporate, via part 70 permit issuance or modification procedures, the schedule of compliance set forth in a conditional order. However, EPA reserves the right to pursue enforcement of applicable requirements notwithstanding the existence of a compliance schedule in a permit to operate. This is consistent with 40 CFR 70.5(c)(8)(iii)(C), which states that a schedule of compliance ''shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.''

The State and county agencies in Arizona have limited the conditional order provisions in the State statute through regulation. ADEQ regulations (R18–2–328(A)) provide that a conditional order may be granted only for non-federally enforceable conditions of a permit and that issuance of the conditional order may not constitute a violation of the Act. Maricopa (Rule 120, Section 401) and Pima (Section 17.28.100(A)) limit issuance of conditional orders in the same way and in addition state that the Control Officer may only grant a conditional order if she/he finds that the source is not a title V source. Pinal (section 3–4–420(A)) provides that no person holding a part 70 permit shall be eligible for a conditional order; however, Pinal must also ensure that the Control Officer may not grant a conditional order that allows a source to vary from the requirement to obtain a part 70 permit. This is listed below in Section II.B. as an interim approval issue for Pinal. While provisions of the State and county rules sufficiently limit issuance of conditional orders (with the exception noted for Pinal), there are additional changes that should be made to the rules. As discussed above, no conditional orders will be issued that allow a source to vary from federally enforceable conditions of a permit, and in the counties, conditional orders will not be issued to title V sources. Therefore, there is no need to submit conditional orders to EPA for review, as provided for in the State and county (except Pima) regulations (ADEQ: R18–2–328(E)(5)(b), Maricopa: Rule 120, Section 405.5(b), Pinal: Section 3–4–450(D)(2)). The EPA recommends removing these provisions.

e. ''Prompt'' Reporting of Deviations. The part 70 operating permits regulation requires prompt reporting of deviations from permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although state and county permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. The EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under § 70.6(a)(3)(iii)(A). Where ''prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. Maricopa, Pima, and Pinal have not defined ''prompt'' in their programs with respect to reporting of deviations. ADEQ has defined ''prompt'' as within 2 working days of the time when the deviation occurred (R18–2–306(A)(5)(b)).

f. Off-Permit Provisions. The Arizona agencies have chosen to combine the requirements for operational flexibility as provided for in § 70.4(b)(12) and off-permit processing of changes as provided for in § 70.4(b)(14) such that one set of provisions in the State and county permitting regulations governs both procedures. (See AAC § R18–2–317, MAPC Regulation II, Rule 210, § 403, PCC § 17.12.230, PCR § 3–2–180.) While the regulations are not structured exactly as in part 70, EPA finds that these provisions satisfy the requirements of both § 70.4(b)(12) and § 70.4(b)(14).

3. Legislative Criminal Enforcement Provisions

Two provisions of Arizona's criminal enforcement authorities initially caused some concern with EPA reviewers. The first of these is the affirmative defense contained in A.R.S. § 49–464(Q) and § 49–514(P), which applies only to violations of emissions and opacity limits. This section provides an affirmative defense to a criminal prosecution if the violation is reported within 24 hours, and followed with a written notification within 72 hours which confirms the violation and identifies the corrective measures taken to control and minimize emissions until compliance is achieved. While the requisite intent for a criminal prosecution would usually be lacking in such an instance, EPA was concerned that a situation could arise where the provision could be used to avoid prosecution for an intentional violation.

In response to EPA's concerns, the Arizona Attorney General's office has explained that this provision has no impact on the Attorney General's ability to prosecute violations of any other requirement and that in appropriate instances violators will be charged with alternative violations under the statute. The Attorney General's office has also pointed out that under the State's enforcement policy an order of abatement would be issued following receipt of notification under § 49–464(D), meaning that a repeat violation would not be protected by the affirmative defense. See letter dated May 4, 1995 from David W. Ronald, Chief, Environmental Crimes Unit, Arizona Attorney General's Office, to Carol M. Browner, Administrator, EPA.

EPA's second concern was that Arizona's criminal penalty provisions are not precisely the same as those specified in § 70.11. Rather than the $10,000 per day per violation set forth in § 70.11(a)(3)(ii) and (iii), the Arizona Attorney General may seek $1,000,000 per offense against an enterprise, and $150,000 per offense against an individual. However, EPA believes that the maximum penalties which could be obtained in a state criminal prosecution would be roughly equivalent to those available under federal law.

Each of these concerns has been resolved to EPA's satisfaction and will not affect EPA's approval of the program. EPA notes that Arizona, in addition to authority for criminal fines, has authority to seek prison terms for criminal violations of permit terms, an authority not required under § 70.11. In light of this, and in light of the limited nature of the affirmative defense provided in § 49–464(D), EPA believes that Arizona's criminal enforcement authority is substantially equivalent to that required by § 70.11. In addition, EPA will monitor each of these issues and may revisit them in the future if actual criminal practice under the program does not reflect the resolutions discussed above.

4. Permit Fee Demonstration

Section 502(b)(3) of the Act requires that each permitting authority collect

fees sufficient to cover all reasonable direct and indirect costs required to develop and administer its title V operating permits program. Each title V program submittal must contain either a detailed demonstration of fee adequacy or a demonstration that aggregate fees collected from title V sources meet or exceed $25 per ton per year (adjusted annually based on the Consumer Price Index (CPI), relative to 1989 CPI). The $25 per ton amount is presumed, for program approval, to be sufficient to cover all reasonable program costs and is thus referred to as the ''presumptive minimum,'' (§ 70.9(b)(2)(i)).

ADEQ, Maricopa, Pima, and Pinal have all adopted fee rules that require sources to pay annual fees that result in collection of an amount that is above the CPI-adjusted presumptive minimum value. Effective January 1, 1994, ADEQ charges each title V source an annual emission-based fee of $33.00 per ton. This rate will be adjusted each year on January 1 to reflect the increase by which the CPI for the most recent year exceeds the CPI for 1989. Maricopa requires each title V source to pay an annual emission fee equal to $31.00 per ton, adjusted each year, beginning January 1, 1995, to reflect the increase by which the CPI for the most recent year exceeds the CPI for 1993. Pima charges title V sources an annual emission fee of $33.00 per ton adjusted annually relative to the 1993 CPI. Pinal requires title V sources to pay annual base, emission, and inspection fees that together amount to $33.94 per ton. These fees will be adjusted each year based on a cost accounting analysis or on the change in the CPI. The Arizona State and county agencies charge additional application fees, inspection fees, permit revision processing fees, fees applicable to certain activities and operation of specific pieces of equipment, and fees representing actual cost of services. ADEQ estimates total annual revenues of $3.4 million. Maricopa estimates total annual revenues of $2.7 million. Pima estimates annual title V revenues of $400,000. Pinal's annual revenue from title V sources will be $233,000. The State and county agencies developed their fee rules based on a workload analysis and cost estimation. For additional information, see the TSD for each agency.

5. Provisions Implementing the Requirements of Other Titles of the Act

a. Authority and Commitments for section 112 Implementation. The Arizona State and county agencies have demonstrated in their title V program submittals adequate legal authority to implement and enforce all section 112 applicable requirements through the title V permit. This legal authority is contained in the State of Arizona enabling legislation and in regulatory provisions defining ''applicable requirements'' and requiring each permit to include limitations that assure compliance with all such applicable requirements. The Arizona agencies have supplemented this legal authority with a commitment in their submitted programs to adopt any future standards and regulations related to section 112 in a timely manner as they are promulgated by EPA. The EPA regards this commitment as an acknowledgement by the Arizona agencies of their obligation to obtain further regulatory authority as needed to issue permits that implement and enforce the requirements of section 112. The EPA has determined that the Arizona agencies' legal authority and commitments are sufficient to allow these agencies to issue permits that assure compliance with all section 112 requirements. For further discussion, please refer to the Technical Support Documents accompanying this action and the April 13, 1993 guidance memorandum entitled ''Title V Program Approval Criteria for section 112 Activities,'' signed by John Seitz.

b. Implementation of Section 112(g). The EPA has published an interpretive notice in the **Federal Register** regarding section 112(g) of the Act (60 FR 8333; February 14, 1995). The interpretive notice explains that EPA is considering whether the effective date of section 112(g) should be delayed beyond the date of promulgation of the federal rule so as to allow states time to adopt rules implementing the federal rule, and that EPA will provide for any such additional delay in the final section 112(g) rulemaking. Unless and until EPA provides for such an additional postponement of section 112(g), ADEQ, Maricopa, Pima, and Pinal must be able to implement section 112(g) during the period between promulgation of the federal section 112(g) rule and adoption of implementing State and county regulations.

Implementation of section 112(g) during this transition period requires that the State and county agencies have an available mechanism for establishing federally enforceable HAP emission limits or other conditions from the effective date of the section 112(g) rule until the State and county agencies adopt rules specifically designed to implement section 112(g). ADEQ, Maricopa, Pima, and Pinal require that any source that modifies must obtain a permit or permit revision prior to commencing construction. All of the Arizona agency programs are integrated programs; that is, the permit that is issued to a new or modifying source prior to its construction will contain all preconstruction review requirements and all operating requirements. Integrated (preconstruction/operating) permits issued to major sources must meet all procedural requirements of part 70, including public and EPA review, and are therefore part 70 permits. In Arizona, sources subject to section 112(g) (new or modified major sources of hazardous air pollutants) will be issued a part 70 permit prior to construction. The source will then have federally enforceable limits on HAP emissions in compliance with section 112(g). Once EPA promulgates a final 112(g) rule, ADEQ, Maricopa, Pima, and Pinal will act expeditiously to adopt regulations consistent with the 112(g) regulations.

c. Authority and Commitments for Title IV Implementation. ADEQ committed in a letter from Ed Fox, Director, dated March 14, 1994 to acquire by January 1, 1995 the necessary regulatory authority to administer an acid rain program and to make regulatory revisions as necessary to accommodate federal revisions and additions. On August 1, 1994, ADEQ adopted 40 CFR part 72 by reference into AAC R18–2–333. Maricopa made a similar commitment in a letter from Louis A. Schmitt, Control Officer, dated March 9, 1994. Maricopa adopted 40 CFR part 72 by reference into MAPC Regulation III, Rule 371 on February 15, 1995. David M. Esposito, Director for Pima submitted an acid rain commitment letter on January 27, 1994. Pima has begun its rulemaking process and expects to complete adoption of part 72 by October, 1995. Pinal has adopted the part 72 acid rain regulations by reference into PCR Chapter 3, Article 6 and also included in its program description a commitment to submit any additional required information by January 1, 1995.

B. Proposed Interim Approval and Implications

The EPA is proposing to grant interim approval to the operating permits programs submitted by ADEQ on the behalf of itself, Maricopa, Pima, and Pinal on November 15, 1993 and supplemented by ADEQ on March 14, 1994; May 17, 1994; March 20, 1995; and May 4, 1995; by Maricopa on December 15, 1993; January 13, 1994; March 9, 1994; and March 21, 1995; by Pima on December 15, 1993; January 27, 1994; April 6, 1994; and April 8, 1994; and by ADEQ on Pinal's behalf on

August 16, 1994. If EPA were to finalize the proposed interim approvals, they would extend for two years following the effective date of final interim approval, and could not be renewed. During the interim approval period, ADEQ, Maricopa, Pima, and Pinal would be protected from sanctions, and EPA would not be obligated to promulgate, administer and enforce a federal permits program for the State or counties. Permits issued under a program with interim approval have full standing with respect to part 70, and the 1-year time period for submittal of permit applications by subject sources begins upon the effective date of interim approval, as does the 3-year time period for processing the initial permit applications.

Following final interim approval, if the State or county agencies failed to submit a complete corrective program for full approval by the date 6 months before expiration of the interim approval, EPA would start an 18-month clock for mandatory sanctions. If the State or counties then failed to submit a corrective program that EPA found complete before the expiration of that 18-month period, EPA would be required to apply one of the sanctions in section 179(b) of the Act, which would remain in effect until EPA determined that the State or counties had corrected the deficiency by submitting a complete corrective program. Moreover, if the Administrator found a lack of good faith on the part of the State or counties, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that the State or counties had come into compliance. In any case, if, six months after application of the first sanction, the State or counties still had not submitted a corrective program that EPA found complete, a second sanction would be required.

If, following final interim approval, EPA were to disapprove the State or counties complete corrective program, EPA would be required to apply one of the section 179(b) sanctions on the date 18 months after the effective date of the disapproval, unless prior to that date the State or counties had submitted a revised program and EPA had determined that it corrected the deficiencies that prompted the disapproval. Moreover, if the Administrator found a lack of good faith on the part of the State or counties, both sanctions under section 179(b) would apply after the expiration of the 18-month period until the Administrator determined that the State or counties had come into compliance. In all cases, if, six months after EPA applied the first sanction, the State or counties had not submitted a revised program that EPA had determined corrected the deficiencies that prompted disapproval, a second sanction would be required.

In addition, discretionary sanctions may be applied where warranted any time after the end of an interim approval period if a state or county has not timely submitted a complete corrective program or EPA has disapproved a submitted corrective program. Moreover, if EPA has not granted full approval to a state or county program by the expiration of an interim approval and that expiration occurs after November 15, 1995, EPA must promulgate, administer and enforce a federal permits program for that state or county upon interim approval expiration.

1. Title V Operating Permits Program

a. *Arizona Department of Environmental Quality.* If EPA finalizes this interim approval, ADEQ must make the following changes, or changes that have the same effect, to receive full approval:

(1) AAC R18–2–101(54) contains ADEQ's definition of ''Insignificant activity.'' It includes a list of activities as well as a provision that the Director may determine, without EPA approval, other activities to be insignificant (Director's discretion). To receive full approval, ADEQ must delete section R18–2–101(54)(j), the Director's discretion provision, and provide a demonstration that the activities listed in R18–2–101(54)(a–i) are truly insignificant. Alternatively, ADEQ may restrict the exemptions to activities that emit less than ADEQ-established emission levels and retain the provision that activities that are subject to an applicable requirement shall not be considered insignificant. ADEQ should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(2) Revise AAC R18–2–101(61) to require that all fugitive emissions of hazardous air pollutants at a source be considered in determining whether the source is major for purposes of section 112 of the CAA.

(3) Revise AAC R18–2–304(C) to include an application deadline for existing sources that become subject to obtaining a Class I permit after the initial phase-in of the program. One example is a synthetic minor source that is not initially required to obtain a Class I permit but later removes federally enforceable limits on its potential emissions such that it becomes a major source, but is not required to go through the preconstruction review process. This application deadline must be 12 months from when the source becomes subject to the program (meets Class I permit applicability criteria). (§ 70.5(a)(1)(i))

(4) Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' AAC R18–2–306(A)(10) includes this exact provision but also includes a sentence that negates this provision. ADEQ must either delete the negating sentence:

> This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or revise this sentence as follows:

> This provision shall not apply to emissions trading between sources [as provided] *if such trading is prohibited* in the applicable implementation plan.

(§ 70.6(a)(8))

(5) Section 70.4(b)(12) provides that sources are allowed to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. Specifically, § 70.4(b)(12)(iii) provides that if a permit applicant requests it, the permitting authority shall issue a permit allowing for the trading of emissions increases and decreases in the permitted facility solely for the purpose of complying with a federally-enforceable emissions cap, established in the permit independent of otherwise applicable requirements. AAC R18–2–306(A)(14) provides for such permit conditions but does not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. ADEQ must revise AAC R18–2–306(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit.

(6) Revise AAC R18–2–310 to clarify that this provision does not apply to part 70 sources. This provision provides sources with an affirmative defense to an enforcement action taken for excess emissions violations that occur during

startup, shutdown, unavoidable breakdown of process or control equipment, an upset of operations, or if greater or more extended excess emissions would result unless scheduled maintenance is performed, provided the source takes certain steps. Fully approvable part 70 programs may only allow for an affirmative defense for violations which are the result of an emergency as defined in § 70.6.

(7) Revise AAC R18–2–322 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(8) Revise AAC R18–2–330(C) to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(9) As discussed in II.A.3. above, A.R.S. § 49–464(Q) and § 49–514(P) provide an affirmative defense to a criminal prosecution for violations of emission and opacity limits if the violation is promptly reported and corrective measures are taken to control and minimize emissions until compliance is achieved. So that ADEQ may charge violators with alternative violations in appropriate instances as discussed in II.A.3., it must revise the definition of ''Material Permit Condition'' in AAC R18–2–331 as follows:

(a) Revise R18–2–331(A)(1) to provide that ''the condition is in a permit or permit revision issued by the Director *or the Control Officer* after the effective date of this Section.''

(b) Delete the requirement in R18–2–331(A)(2) that the condition must be identified within the permit as a material permit condition.

(c) Revise R18–2–331(A)(3)(c) to provide that a material permit condition includes a ''requirement for the installation, operation, maintenance, or certification of a monitoring device.''

(d) Revise R18–2–331(A)(3)(e) to provide that a material permit condition includes a ''requirement for the operation or maintenance of air pollution control equipment.''

(e) Revise R18–2–331(A)(3) to include the following:

i. A requirement for or prohibition on the use of a particular fuel or fuels, including a requirement for fuel consumption;

ii. A requirement to meet an operational limit, including, but not limited to, hours of operation, throughput, production rates, or limits or specifications for raw materials;

iii. A requirement to comply with a work practice standard that is intended to reduce emissions (e.g., covering solvents, wetting unpaved roads).

(10) Revise AAC R18–2–331(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 464(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 464(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give ADEQ the authority to bring criminal charges for knowing violations of fee and filing requirements.

(11) Revise AAC R18–2–504, which contains public notice procedures for the issuance of general permits, to include requirements that ADEQ shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

b. *Maricopa County Environmental Management and Transportation Agency, Division of Air Pollution Control.* If EPA finalizes this interim approval, Maricopa must make the following changes, or changes that have the same effect, to receive full approval:

(1) Delete the following language from MAPC Regulation I, Rule 100, section 224:

> Properties shall not be considered contiguous if they are connected only by property upon which is located equipment utilized solely in transmission of electrical energy.

This language, which is part of the definition of a stationary source, is not consistent with the stationary source definition in § 70.2.

(2) Revise MAPC Regulation I, Rule 100, § 251.2 to clarify that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year major source thresholds. The phrase ''including any major source of fugitive emissions'' in the submitted § 251.2 appears to modify only the 25 ton per year threshold. This phrase could also imply that fugitives are included in the potential to emit determination only if the source emits major amounts of fugitive emissions. The EPA expects, however, that Maricopa will implement this provision consistent with the EPA policy that all fugitive emissions of hazardous air pollutants at a source must be considered in determining whether the source is major for purposes of section 112 of the CAA.

(3) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Maricopa is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise MAPC Regulation I, Rule 100, section 253 in the same way as required for ADEQ in II.B.1.a.(9).

(4) For the same reasons discussed above in II.A.B.1.a.(10) and II.A.B.1.b.(3), revise MAPC Regulation I, Rule 100, section 253.1(c) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Maricopa the authority to bring criminal charges for knowing violations of fee and filing requirements.

(5) Revise MAPC Regulation I, Rule 100, section 505 to clarify that for Title V sources, records of all required monitoring data and support information must be retained for a period of five years, as provided in Regulation II, Rule 210, section 302.1(d)(2). (§ 70.6(a)(3)(ii)(B))

(6) Revise MAPC Regulation I, Rule 100, section 506 to clarify that for Title V sources, all permits, including all elements of permit content specified in Rule 210, section 302, shall be available to the public, as provided in Regulation

II, Rule 200, section 411.1. (§ 70.4(b)(3)(viii))

(7) Revise MAPC Regulation II, Rule 200, section 312.2 to define when sources become ''subject to the requirements of Title V.'' A source becomes subject to the requirements of title V on the date that EPA approves the County's program and when the source meets the applicability requirements as provided in section 302 of Rule 200. In addition, revise section 312.5 to require that existing sources that do not hold a valid installation or operating permit must submit an application within 12 months of becoming subject to the requirements of title V.

(8) Revise MAPC Regulation II, Rule 200, section 403 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(9) MAPC Regulation II, Rule 200, section 303.3(c) contains the list of activities that are exempt from part 70 permitting. The applicants must list these activities in permit applications but need not provide emissions data (per Regulation II, Rule 210, section 301.5(g)). To receive full approval Maricopa must provide a demonstration that the activities listed in Rule 200, Section 303.3(c) are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, Maricopa may restrict the exemptions to activities that are not likely to be subject to an applicable requirement and that emit less than County-established emission levels. Maricopa should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(10) For the reason explained above in II.B.1.a.(4), revise MAPC Regulation II, Rule 210, Section 302.1(j) by either deleting the following sentence:

> This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

> This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(11) For the reason explained above in II.B.1.a.(5), revise MAPC Regulation II, Rule 210, Section 302.1(n) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, revise this provision to require the notice required by sections 403.4 and 403.5 to also describe how the increases and decreases in emissions will comply with the terms and conditions of the permit. (§ 70.4(b)(12))

(12) Delete the provision of MAPC Regulation II, Rule 210, section 404.1(e) that provides for equipment removal that does not result in an increase in emissions to be processed as an administrative permit amendment. Removal of certain equipment, even if it does not result in an increase in emissions, may require processing as a significant permit revision. One example is removal of monitoring equipment, which part 70 clearly requires to be processed as a significant permit revision. (§ 70.7(d), § 70.7(e)(4))

(13) Delete the following language from the criteria for minor permit revisions in MAPC Regulation I, Rule 210, section 405.1(c):

> * * * other than a determination of RACT pursuant to Rule 241, Section 302 of these rules, * * *

This language is included in the rule as an exception to the prohibition against allowing case-by-case determinations to be processed as minor permit revisions. The definition of RACT in section 272 of Rule 100 states that ''RACT for a particular facility, other than a facility subject to Regulation III, is determined on a case-by-case basis * * *'' Rule 241 is not in Regulation III, so RACT determinations made pursuant to this rule are done so on a case-by-case basis. Excepting RACT determinations from the prohibition against processing case-by-case determinations through the minor permit revision process violates the requirement of section 70.7(e)(2)(i)(A)(3).

(14) Revise Regulation II, Rule 210, Section 408 to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(15) Revise MAPC Regulation II, Rule 230, Section 304, which contains public notice procedures for the issuance of general permits, to include requirements that Maricopa shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

c. Pima County Department of Environmental Quality. If EPA finalizes this interim approval, Pima must make the following changes, or changes that have the same effect, to receive full approval:

(1) Revise PCC § 17.04.340(133)(b)(i), the definition of major source, to clarify that fugitive emissions of hazardous air pollutants must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year major source thresholds. The current definition appears to require inclusion of fugitive emissions only when determining applicability according to the 10 ton per year major source threshold.

(2) Revise PCC § 17.12.150(B) and § 17.12.150(G)(1) to clarify when a source becomes subject to obtaining title V permits. A source becomes subject to obtaining a title V permit on the date that EPA approves the County's program and when the source meets the applicability requirements as provided in § 17.12.140(B)(1).

(3) PCC § 17.12.160(E)(7) contains emission levels that define which emission units are exempt from part 70 permitting. The applicants must list activities that emit below these levels in the permit applications but need not provide detailed information or data regarding these units. To receive full approval, Pima must demonstrate that these emission levels are insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted or subject to applicable requirements or establish separate insignificant emission levels for HAPs and use the current emission levels in § 17.12.160(E)(7) to define insignificant activities for criteria pollutant-emitting units only. Pima must also restrict the exemptions to activities that are not likely to be subject to an applicable requirement . (See discussion in II.A.2.b. above.) (§ 70.5(c), § 70.4(b)(2))

(4) For the same reason discussed above in II.B.1.a.(4), revise PCC § 17.12.180(A)(10) by either deleting the following sentence:

This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(5) For the same reason discussed above in II.B.1.a.(5), revise PCC § 17.12.180(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. (§ 70.4(b)(12))

(6) Revise PCC § 17.12.280 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(7) Revise PCC § 17.12.340 to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(8) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Pima is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise PCC § 17.12.350 in the same way as required for ADEQ in II.B.1.a.(9).

(9) For the same reasons discussed above in II.B.1.a.(10) and II.B.1.c.(8), revise PCC § 17.12.350(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Pima the authority to bring criminal charges for knowing violations of fee and filing requirements. (§ 70.11(a)(3)(ii))

(10) Revise PCC § 17.12.400, which contains public notice procedures for the issuance of general permits, to include requirements that Pima shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

d. Pinal County Air Quality Control District. If EPA finalizes this interim approval, Pinal must make the following changes, or changes that have the same effect, to receive full approval:

(1) PCR § 1–3–140(74a)(b) contains Pinal's definition of ''Insignificant activity.'' It includes an emissions threshold that defines which units or activities would be exempt from permitting. The EPA considers this level to be acceptable for most pollutants but a lower threshold may be appropriate for certain hazardous air pollutants. The definition also contains a list of activities that are considered insignificant and exempt from permitting regardless of their level of emissions. To receive full approval, Pinal must demonstrate that the 200 pound per year emission threshold is insignificant compared to the level of hazardous air pollutant emissions from units that are required to be permitted activities and provide a demonstration that the activities listed in § 1–3–140(74a)(b)(i–ix) are truly insignificant. Alternatively, Pinal may restrict exemptions to activities that emit less than County-established emission levels and retain the provision that activities that are subject to an applicable requirement shall not be considered insignificant. Pinal should establish separate emission levels for HAPs and for other regulated pollutants and demonstrate that these emission levels are insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements. (§ 70.5(c), § 70.4(b)(2))

(2) Revise PCR § 1–3–140(79)(b) to require that all fugitive emissions of hazardous air pollutants at a source be considered in determining whether the source is major for purposes of section 112 of the CAA. Revise PCR § 1–3–140(79)(c) to provide that fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the Act, unless the source belongs to one of the categories of stationary sources listed in section 70.2 under the definition of ''Major source,'' paragraph 2, items (i) to (xxvii).

(3) Revise PCR § 3–1–040(C)(1) to require that the motor vehicles, agricultural vehicles, and fuel burning equipment that are exempt from permitting shall not be exempt if they are subject to any applicable requirements. (70.5(c))

(4) Revise PCR § 3–1–045(G)(1) to require sources requiring Class A permits to submit a permit application no later than 12 months after the date the Administrator approves the District program. Revise PCR § 3–1–050(C) to include an application deadline for existing sources that become subject to obtaining a Class A permit after the initial phase-in of the program. One example is a synthetic minor source that is not initially required to obtain a Class I permit but later removes federally enforceable limits on its potential emissions such that it becomes a major source, but is not required to go through the preconstruction review process. This application deadline must be 12 months from when the source becomes subject to the program (meets Class A permit applicability criteria). (§ 70.5(a)(1)(i))

(5) For the reason discussed above in II.B.1.a.(4), revise PCR § 3–1–081(A)(10) by either deleting the following sentence:

This provision shall not apply to emissions trading between sources as provided in the applicable implementation plan.

or by revising this sentence as follows:

This provision shall not apply to emissions trading between sources if such trading is prohibited in the applicable implementation plan.

(§ 70.6(a)(8))

(6) For the reason discussed above in II.B.1.a.(5), revise PCR § 3–1–081(A)(14) to clarify that changes made under this provision may not be modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. In addition, revise this provision to require that the permit terms and conditions shall provide for notice that conforms to section 3–2–180 (D) and (E) and that describes how the increases and decreases in emissions will comply with the terms and conditions of the permit. (§ 70.4(b)(12))

(7) Revise PCR § 3–1–089 to include a provision that if a timely and complete application for a permit renewal is submitted then one of the following will occur (§ 70.4(b)(10)):

(a) The permit shall not expire until the renewal permit has been issued or denied; or

(b) All terms and conditions of the permit shall remain in effect until the renewal permit has been issued or denied.

(8) Revise PCR § 3–1–107(C) to include a provision for giving public notice ''by other means if necessary to assure adequate notice to the affected public.'' (§ 70.7(h)(1))

(9) A.R.S. § 49–514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director of ADEQ by rule. Pinal is therefore required to use ADEQ's definition of ''Material Permit Condition.'' For this reason and the reasons discussed above in II.A.3. and II.B.1.a.(9), revise PCR § 3–1–109 in the same way as required for ADEQ in II.B.1.a.(9).

(10) For the same reasons discussed above in II.A.B.1.a.(10) and II.A.B.1.d.(9), revise PCR § 3–1–109(A)(3) to include fee and filing requirements in the definition of ''Material Permit Condition.'' Section 70.11(a)(3)(ii) requires that criminal fines shall be recoverable against any person who knowingly violates any fee or filing requirement. A.R.S. § 514(L)(3) provides for criminal enforcement of a violation of fee or filing requirements due to criminal negligence only. A.R.S. § 514(G) provides for criminal enforcement of a knowing violation of a ''material permit condition'' as defined by the Director by rule. Thus, defining ''Material Permit Condition'' to include fee and filing requirements will give Pinal the authority to bring criminal charges for knowing violations of fee and filing requirements.

(11) Revise PCR § 3–4–420 to provide that a conditional order that allows a source to vary from the requirement to obtain a Class A permit may not be granted to any source that meets the Class A permit applicability criteria pursuant to PCR § 3–1–040.

(12) Revise PCR § 3–5–500, which contains public notice procedures for the issuance of general permits, to include requirements that Pinal shall:

(a) Provide notice by other means if necessary to assure adequate notice to the affected public. (§ 70.7(h)(1))

(b) Provide notice of any public hearing, including the time and place of the hearing, at least 30 days in advance of the hearing. (§ 70.7(h)(4))

(c) Provide for keeping a record of the commenters and of the issues raised during the public participation process. (§ 70.7(h)(5))

(d) Provide a copy of the final general permit to EPA. (§ 70.8(a)(1))

2. Program for Delegation of Section 112 Standards as Promulgated

Requirements for approval, specified in 40 CFR 70.4(b), encompass section 112(l)(5) requirements for approval of a program for delegation of section 112 standards as promulgated by EPA as they apply to part 70 sources. Section 112(l)(5) requires that state and county programs contain adequate authorities, adequate resources for implementation, and an expeditious compliance schedule, which are also requirements under part 70. Therefore, EPA is also proposing to grant approval under section 112(l)(5) and 40 CFR 63.91 of ADEQ's, Maricopa's, Pima's, and Pinal's programs for receiving delegation of section 112 standards that are unchanged from the federal standards as promulgated and that apply to sources covered by the part 70 program.

Because Pima and Pinal require all sources (including nonmajor sources) subject to a requirement under section 112 of the Act to obtain a part 70 permit, the proposed approval of Pima's and Pinal's program for delegation extends to section 112 standards as applicable to all sources. ADEQ and Maricopa will not issue part 70 permits to nonmajor sources subject to a section 112 standard (unless such sources are designated by EPA to obtain a permit) but these agencies submitted addenda to their title V programs in which they specifically requested approval under section 112(l) of a program for delegation of unchanged section 112 standards applicable to non-part 70 sources. (See letter from Nancy Wrona, Director, Air Quality Division, ADEQ to David Howekamp, Director, Air and Toxics Division, EPA Region IX, dated March 20, 1995. See letter from David Ludwig, Acting Director, Maricopa County Environmental Services Department, to David Howekamp, dated March 21, 1995.) Therefore, today's proposed approval under section 112(l) of ADEQ's and Maricopa's program for delegation extends to non-part 70 sources as well as part 70 sources.

ADEQ, Maricopa, Pima, and Pinal have informed EPA that each intends to obtain the regulatory authority necessary to accept delegation of section 112 standards by incorporating section 112 standards into State and county codes of regulations by reference to the federal regulations. The details of this delegation mechanism will be set forth in a Memorandum of Agreement between each Arizona agency and EPA, expected to be completed prior to approval of each agency's section 112(l) program for straight delegations. This program applies to both existing and future standards.

III. Administrative Requirements

A. Request for Public Comments

The EPA is requesting comments on all aspects of this proposed interim approval. Copies of the State and county submittals and other information relied upon for the proposed interim approval are contained in a docket maintained at the EPA Regional Office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed interim approval. The principal purposes of the docket are:

(1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and

(2) To serve as the record in case of judicial review. The EPA will consider any comments received by August 14, 1995.

B. Executive Order 12866

The Office of Management and Budget has exempted this action from Executive Order 12866 review.

C. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

D. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the proposed interim approval action promulgated today does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, and Reporting and recordkeeping requirements.

Authority: 42 U.S.C. sections 7401–7671q.

Dated: July 5, 1995.

Felicia Marcus,

Regional Administrator.

[FR Doc. 95–17208 Filed 7–12–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

45 CFR Part 57a

RIN 0905–AC95

Spcial Volunteer Services at the National Institutes of Health

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Withdrawal of proposed rule.

SUMMARY: The National Institutes of Health (NIH) is withdrawing the notice of proposed rulemaking (NPRM) pertaining to the acceptance and use of uncompensated volunteer services. This action is being taken to comply with provisions of Executive Order No. 12866.

SUPPLEMENTARY INFORMATION: The NIH published an NPRM in the **Federal Register** August 9, 1993 (58 FR 42270) governing the acceptance and use of uncompensated volunteer services administered through the NIH Special Volunteer Program, and invited public comment on the proposed regulations. Subsequently, the President issued Executive Order No. 12866, Regulatory Planning and Review, which outlines a program to reform and make more efficient the regulatory process. Section 1(a) of that Order directs agencies to promulgate only those regulations that are required by law, are necessary to interpret the law, or are made necessary by compelling need. The NIH has determined that the regulations are not required by law or necessary to interpret the law; nor is there a compelling need for the proposed regulations pertaining to the NIH Special Volunteer Program. Consequently, the NIH is withdrawing the proposed regulations and will continue to administer the program through guidelines.

EFFECTIVE DATE: July 13, 1995.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Moore, NIH Regulatory Affairs Officer, Building 31, Room 1B05, 31 Center Dr. MSC 2075, Bethesda, MD 20892–2075, telephone (301) 496–4606 (not a toll-free number).

List of Subjects in Proposed 45 CFR Part 57a

Special volunteers, Volunteers.

Dated: May 17, 1995.

Philip R. Lee,

Assistant Secretary for Health.

Approved: July 3, 1995.

Donna E. Shalala,

Secretary.

[FR Doc. 95–17107 Filed 7–12–95; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 36

RIN 1018–AC02

Visitor Service Authorizations on Alaska National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; re-opening of public comment period.

SUMMARY: The proposed rule would establish Fish and Wildlife Service regulations to implement section 1307 of the Alaska National Interest Lands Conservation Act (ANILCA). The proposed regulations are necessary to establish procedures for granting historical use, Native Corporation, and local preferences in the selection of commercial operators who provide visitor services other than hunting and fishing guiding on National Wildlife Refuge System lands in Alaska. Particularly, this rule would provide guidance in the solicitation, award and renewal of Alaska visitor service authorizations. This rulemaking, the substance of which was printed as a proposed rule on April 25, 1995 (60 FR 20380), extends the comment period for another 60 days to allow additional review and comment by interested groups and persons.

DATES: Comments will be accepted until September 11, 1995.

ADDRESSES: Comments should be addressed to Regional director, Alaska Region, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

FOR FURTHER INFORMATION CONTACT: David J. Patterson, Regional Public Use Specialist, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Extended Comment Period: Revenue Producing Visitor Services

This document announces a 60-day re-opening of the comment period for the proposed Revenue producing visitor services, that was published in the **Federal Register** on April 25, 1995, (60 FR 20380). The initial comment period expired on June 26, 1995. Many comments received during the initial comment period requested additional time to review the proposed regulations. Accordingly, the comment period for the proposed rule is hereby extended for an additional 60 days.

Dated: July 7, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–17087 Filed 7–12–95; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

[I.D. 062695A]

Coral and Coral Reefs of the Gulf of Mexico; Amendment 3

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and minority report; request for comments.

SUMMARY: NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 3 to the Fishery Management Plan for Coral and Coral Reefs of the Gulf of Mexico for review, approval, and implementation by NMFS. Written comments are requested from the public.

DATES: Written comments must be received on or before August 21, 1995.

ADDRESSES: Comments must be mailed to the Southeast Regional Office, NMFS,